

**IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF ARKANSAS
FAYETTEVILLE DIVISION**

BRET A. BIELEMA

PLAINTIFF

v.

5:20-cv-05104-PKH

THE RAZORBACK FOUNDATION, INC.

DEFENDANT

THE RAZORBACK FOUNDATION, INC.

COUNTER-PLAINTIFF

V.

BRET A. BIELEMA and NEIL CORNRICH

COUNTER-DEFENDANTS

DEFENDANT/COUNTER-PLAINTIFF'S MOTION TO COMPEL

Defendant/Counter-Plaintiff, The Razorback Foundation, Inc. (the “**Foundation**”), by its attorneys and pursuant to Federal Rule of Civil Procedure 37(a), hereby moves for an Order compelling Plaintiff Bret Bielema to provide full and complete responses to The Razorback Foundation, Inc.’s First Set of Interrogatories and First and Second Request for Production of Documents and states as follows.

1. On October 1, 2020, the Foundation served its First Request for Production of Documents and First Set of Interrogatories on Bielema.

2. On October 6, 2020, the Foundation served its Second Request for Production of Documents, requesting all documents referenced in Bielema’s initial disclosures because no such documents were provided.

3. Bielema requested, and the Foundation agreed to, a two-week extension. On November 16, 2020, Bielema served objections and responses to the Foundation’s discovery requests.

4. As of the date of this filing, nearly two months after the discovery was served and six months after Bielema filed this action, Bielema (i) has not produced a single document and (ii) has failed to provide complete responses to the Foundation's Interrogatory Nos. 1, 7, 11, 13, 14, 16, 17, and 18.

5. On November 17, 2020, the Foundation sent a letter to Bielema detailing the deficiencies in his discovery responses and requesting complete responses by November 23, 2020.

6. On November 19, 2020, Bielema's counsel sent a letter in which he conceded there were deficiencies in the discovery responses but stating that he could not guarantee when those deficiencies would be resolved.

7. On November 22, 2020, Bielema's counsel stated that he would not be able to cure the deficiencies in the discovery responses by November 23, as requested.

8. On November 23, 2020, counsel for the Foundation and counsel for Bielema conferred by telephone. Counsel for Bielema represented that he could not provide a definite timeline for producing documents and was not confident that he would even be able to begin producing documents the week of November 23.

9. Pursuant to Local Rule 7.2(g) and the Court's Final Scheduling Order (Doc. No. 40), counsel for the Foundation certifies that it has conferred by telephone with opposing counsel in a good-faith effort to resolve the issues raised in the instant motion. However, because Bielema has failed to provide complete discovery responses by the requested date, and cannot provide a time certain for doing so, Court intervention is necessary.

10. The Foundation incorporates by reference its Brief in Support, which is attached hereto, and files the following supporting exhibits herewith:

- Exhibit A - Foundation's First Set of Interrogatories and Request for Production of Documents (Oct. 1, 2020);
- Exhibit B - Foundation's Second Set of Request for Production of Document (Oct. 6, 2020);
- Exhibit C - Bielema's Objections and Responses to Foundation's First Set of Interrogatories and First and Second Set of Requests for Production of Documents (Nov. 16, 2020);
- Exhibit D - Email from counsel for Bielema (Nov. 16, 2020);
- Exhibit E - Email from counsel for Foundation (Nov. 17, 2020);
- Exhibit F - Correspondence from counsel for Foundation (Nov. 17, 2020);
- Exhibit G - Correspondence from counsel for Bielema (Nov. 19, 2020); and
- Exhibit H - Email from counsel for Bielema (Nov. 22, 2020).

11. In addition, the Foundation is entitled to reimbursement of its attorneys' fees and related expenses associated with the filing of this Motion. *See* Fed. R. Civ. P. 37(a)(5).

WHEREFORE, the Foundation respectfully requests that this Court order Bielema to provide full and complete responses to the Foundation's First and Second Request for Production of Documents and First Set of Interrogatories, that the Foundation receive an award of its reasonable attorneys' fees and costs associated with the filing of this Motion, and that the Court grant such other and further relief as it deems proper.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I, Marshall S. Ney, do hereby certify that the foregoing is being electronically filed with the Court and that the below listed persons will receive a copy of the foregoing via the Court's electronic notification system (ECF), on or about this 23rd day of November, 2020:

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/s/ Marshall S. Ney

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